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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,748	03/17/2004	Dana M. Walker	100041-41199	6866
27805	7590	02/26/2008	EXAMINER	
THOMPSON HINE L.L.P. Intellectual Property Group P.O. BOX 8801 DAYTON, OH 45401-8801			WILLIAMS, JAMLA O	
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			3722	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/803,748

Applicant(s)

WALKER ET AL.

Examiner

JAMILA WILLIAMS

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2-8-2008 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19-26, 28-31, 34-36, 38, 39, 41 and 43-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-26, 28-31, 34-36, 38-39, 41, 43-45 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Prosecution Application

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2-8-2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made

3. Claims 1-7 and 11-17,19-26,28-31,34-36,39,43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over 4,614,450 to Neiman in view of 5,080,223 to Mitsuyama and further in view of 4,345,394 to Sullivan. Neiman discloses a system comprising at least one storage sheet (10) having at least two pockets (pockets 18 used for storing index cards) in a notebook (fig1) having a front and back cover and a binding mechanism (16). Neiman further discloses that the pockets are transparent (abstract of Neiman).

Neiman does not however disclose the storage sheet having a backing sheet, a panel pocket between the at least one card pocket and the backing sheet and including at least one supply sheet having a plurality of index cards formed therein and detachable therefrom.

Mitsuyama teaches having a storage sheet having a backing sheet (32) and a panel pocket (37) between at least one pocket (43) and the backing sheet (figure 8-9 of Mitsuyama). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the panel pocket and backing as taught by Mitsuyama with the storage sheet of Neiman for the purpose of providing additional storage.

Sullivan teaches having a supply sheet (fig 3 Sullivan) capable of being bound in a notebook via binding edge (36 of Sullivan) and having at least one detachable index card thereon with perforations (fig 3 of Sullivan, the cards of Sullivan satisfy the requirement of being "index cards" in that they can be filed, as in the pockets in figure 2 for example and they can receive text). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the supply sheet of Sullivan with the system of Neiman modified by Mitsuyama for the purpose of allowing the user to store both the index cards and the supply sheet together, especially since Sullivan teaches assembling both a supply sheet and pocket sheet in a binder (col 1 lines 40-43 of Sullivan).

Regarding the sizing of the card pockets and index cards, it would have been an obvious matter of design choice to size the pockets and index cards as claimed since

such a modification would have involved a mere change in size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). It is noted that applicant provides no criticality to the size of the pockets or cards (specification page 4 paragraph 0021).

Regarding claim 3 wherein the system further comprises a plurality of sheets of paper bound by the binding mechanism. It is well known to provide sheets of paper in a notebook. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include sheets of paper in the notebook of Neiman (modified by Mitsuyama and Sullivan) for the purpose of providing the user with sheets for writing information thereon.

Regarding the limitations of claim 4 wherein the supply sheet is similar in shape but generally smaller than the sheets of paper and the limitations of claims 12, 14-16 wherein the index cards are of a specific size, it is well known to have paper or index cards of various sizes therefore it would have been obvious to one having ordinary skill in the art that the time the invention was made to alter the size of the sheet as suited for the intended use, especially since applicant has provided no criticality towards the size of the paper (page 6 paragraph [0026] of spec.) nor the size of the index cards (page 4 paragraph [0021] last 5 lines of spec.).

Regarding the limitations of claim 6 wherein the binding mechanism is a helical coil or twin wire, Neiman uses binding rings as the binding mechanism but helical coil and

twin wire binders are also a well known binding mechanism. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a well known helical coil binder for the purpose of binding the sheets together, since binding rings and helical coil binders are art recognized equivalents.

Regarding claim 7, Neiman modified by (Misuyama and Sullivan) discloses at least one card pocket of the storage sheet includes a mouth and a flap for selectively covering the mouth (figure 8 of Misuyama, flap 35).

Regarding claim 11, Neiman (modified by Mitsuyama and Sullivan) discloses having two pockets being rectangular in shape and the first pocket having a longitudinal axis. Neiman (modified by Mitsuyama and Sullivan) does not however disclose that the second rectangular pocket has a longitudinal axis perpendicular to the axis of the first pocket. However changing the size of the pocket such that the longitudinal axis of the second pocket is perpendicular to the axis of the first pocket would be an obvious matter of design choice. This modification would allow for storing index cards of different sizes.

Regarding claim 13, Neiman (modified by Mitsuyama and Sullivan) discloses the index card being formed on the supply sheet by a plurality of perforations in the supply sheet (fig 3 of Sullivan).

Regarding claim 17, Neiman (modified by Mitsuyama and Sullivan) discloses the pocket being made of a generally entirely transparent material (abstract and fig 3 of Neiman).

Neiman (modified by Mitsuyama and Sullivan) also satisfies the method for assembling an index card storage system, recited in claims 19-26. Regarding the method steps of claims 28-29, Neiman teaches providing a storage sheet with a pocket thereon and a binding mechanism and a teaching of placing index cards in the pockets (Neiman fig 3). Mitsuyama teaches providing a storage sheet having a backing sheet (32) and a panel pocket (37) between at least one pocket (43) and the backing sheet (figure 8-9 of Mitsuyama). Sullivan teaches having a supply sheet with detachable index cards thereon and placing the detached card in a pocket (Sullivan fig 2). Therefore it would have been obvious to place the index card of Sullivan in the pocket of Neiman modified by Mitsuyama for the purpose of providing safe storage of the card.

Regarding claim 30, see rejection of claim 18 above.

Regarding claim 31, see rejection of claim 17 above.

Regarding claim 35, see rejection of claim 13 above.

Regarding claim 36, see rejection of claim 17 above.

Regarding claim 39, see rejection of claim 17 above.

Regarding claims 43-45, Neiman modified by Mitsuyama and Sullivan disclose each of the index cards has a front and back surface (figure 3 of Sullivan- only front shown), wherein when the index card is placed in the card pocket at least the front is entirely visible (both Neiman and Mitsuyama disclose transparent pockets (abstract of Sullivan, column 2 lines 37-41 of Mitsuyama).

4. Claims 1,7,8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over 6,652,178 to Walton in view of Mitsuyama in view of Sullivan and further

in view of 3,720,304 to Laugherty et al. Walton discloses a storage system having at least one storage sheet (fig 1 of Walton) with at least two pockets that is to be bound in a notebook binder (abstract of Walton). Walton further discloses that the pocket includes a mouth and flap (fig 7a-d of Walton). Walton however fails to disclose the backing sheet and panel pocket and a supply sheet having an index card formed therein and detachable therefrom and a binding mechanism for binding the sheet together with the storage sheet.

Mitsuyama teaches having a storage sheet having a backing sheet (32) and a panel pocket (37) between at least one pocket (43) and the backing sheet (figure 8-9 of Mitsuyama). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the panel pocket and backing as taught by Mitsuyama with the storage sheet of Walton for the purpose of providing additional storage.

Sullivan teaches having at least one supply sheet having a plurality of index cards formed therein and detachable therefrom (fig 3 of Sullivan) and that has a binding edge (28) to be bound in a notebook (col 1 lines 40-43 of Sullivan). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the storage sheet and binding mechanism (notebook) as taught by Walton modified by Mitsuyama with the supply sheet and binding edge of Sullivan for the purpose of providing storage for both the supply and storage sheets.

This combination does not however disclose the slit and crease used to close the flap, as recited in claims 8-10. Laugherty teaches having a pocket device (cardboard in figures forms a pocket) having a slit (slit which forms tab 6) on the front face of the pocket for receiving flap (4) wherein the pocket has a crease such that the slit edge is pivotable about the crease (see figures 2-5, crease allows for pivotable movement of tab 6); wherein the slit forms an angle with the body of the pocket and is shaped to guide the flap there under (fig 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teachings of Laugherty with the pocket of Walton (modified by Mitsuyama and Sullivan) for the purpose of more securely closing the flap and pocket.

Regarding the sizing of the card pockets and index cards, it would have been an obvious matter of design choice to size the pockets and index cards as claimed since such a modification would have involved a mere change in size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). It is noted that applicant provides no criticality to the size of the pockets or cards (specification page 4 paragraph 0021).

5. Claims 1,19,29 and 34,38,41 are rejected under 35 U.S.C. 103(a) as being unpatentable over 6,652,178 to Walton in view of Mitsuyama and further in view of Sullivan. Walton discloses a storage system having at least one storage sheet (fig 1 of Walton) with at least two pockets that is to be bound in a notebook binder (abstract of Walton). Walton further discloses that the

pocket includes a mouth and flap (fig 7a-d of Walton) and having a plurality of pockets spaced apart and arranged in a generally co-planar, non-overlapping relation (fig 7d of Walton for example). Walton however fails to disclose the backing sheet and panel pocket and a supply sheet having an index card formed therein and detachable therefrom and a binding mechanism for binding the sheet together with the storage sheet.

Mitsuyama teaches having a storage sheet having a backing sheet (32) and a panel pocket (37) between at least one pocket (43) and the backing sheet (figure 8-9 of Mitsuyama). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the panel pocket and backing as taught by Mitsuyama with the storage sheet of Walton for the purpose of providing additional storage.

Sullivan teaches having at least one supply sheet having a plurality of index cards formed therein and detachable therefrom (fig 3 of Sullivan) and that has a binding edge (28) to be bound in a notebook (col 1 lines 40-43 of Sullivan). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the storage sheet and binding mechanism (notebook) as taught by Walton with the supply sheet and binding edge of Sullivan modified by Mitsuyama for the purpose of providing storage for both the supply and storage sheets.

Regarding the sizing of the card pockets and index cards, it would have been an obvious matter of design choice to size the pockets and index cards as claimed since such a modification would have involved a mere change in size of a component. A

change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). It is noted that applicant provides no criticality to the size of the pockets or cards (specification page 4 paragraph 0021).

Walton modified by Mitsuyama and Sullivan further discloses the method of assembling an index card storage system, as recited in claims 19 and 29.

Regarding the sizing of the card pockets and index cards, it would have been an obvious matter of design choice to size the pockets and index cards as claimed since such a modification would have involved a mere change in size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). It is noted that applicant provides no criticality to the size of the pockets or cards (specification page 4 paragraph 0021).

Regarding claim 38, see rejection of claim 34 above.

Regarding claim 41, see rejection of claim 34 above.

Response to Arguments

Applicant's arguments filed 12-21-2007 have been fully considered but they are not persuasive.

Applicant's arguments towards the size of the pockets and index cards have been reviewed, however the examiner maintains that a change in size of these components would be an obvious matter of design choice. It is further noted that

applicant has provided no criticality to the claimed sizes (specification page 4 paragraph 0021). Therefore the rejections of record are maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMILA WILLIAMS whose telephone number is (571)272-4431. The examiner can normally be reached on Monday-Thursday 6:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 3722

Examiner, Art Unit 3722

/Monica S. Carter/

Supervisory Patent Examiner, Art Unit 3722